

Appln No. 09/995,483
Amdt date December 11, 2007
Reply to Office action of September 11, 2007

REMARKS/ARGUMENTS

The above amendments and these remarks are in response to the Office action mailed on September 11, 2007. Claim 29 has been cancelled. Claims 1, 3, 8, 11, 14, 18, 20, 22 and 27 have been amended. Claim 114 has been added. Claims 1, 3-28, 30-42, 57 and 114 are now pending in this application. Reconsideration on the basis of the above amendments and remarks below is kindly requested.

The amendments to claims 1, 14, 22 and 27 find support on column 3, lines 24 to column 4, line 7, as well on FIGS. 4 and 5. The amendment to claim 3 finds support on column 3, lines 58-62, as well on FIG. 4. The amendment to claim 26 finds support on column 3, line 64 to column 4, line 7. The amendments to claims 8, 11, 18 and 24 find support on column 4, lines 8-27, as well as on FIG. 6.

A Supplemental Declaration for Reissue Patent Application is being submitted herewith.

The Examiner rejected claims 27, 28 and 30 under 35 U.S.C. §112, second paragraph. Claim 27 has been amended to overcome this rejection.

The Examiner rejected claims 8, 9, 18, 19, 24 and 57 under 35 U.S.C. §102(b) as being anticipated by Lepore, U.S. Patent No. 3,147,876. Claim 8 is directed to a cap for capping a bottle having a rim defining a mouth. The claim requires a groove formed on the inner surface of the cap top portion which extends chordwise from a first point to a second point, wherein the first and second points are positioned so as to be outside of the rim when the cap is capping the bottle. Lepore discloses a groove 18 which extends from an inner surface of a cap and alongside a plug. The groove appears to begin at a location outside the rim and extends to a location inside the mouth of the bottle. The groove 18 disclosed by Lepore does not appear to extend between a first and a second point, both of which are positioned outside of the rim as required by claim 8. As such, Applicant submits that claim 8 is not anticipated by Lepore. Claims 9 and 57 are dependent from claim 8. As such, Applicant submits that claims 9 and 57 are also not anticipated by Lepore as being dependent from a claim not anticipated by Lepore and for the additional limitations that these claims contain therein.

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Claim 18 is directed to a vented bottle cap system which includes a groove formed on the inner surface of the top portion of the cap extending from a first groove end to a second groove end. The claim requires that when the cap is threaded onto the bottle neck, the groove first end is external of the bottle neck rim and the groove second end is external of the rim. As discussed, the groove disclosed by Lepore has one end that appears to be external of the rim, but the second end appears to be internal of the rim. As such, Applicant submits that Lepore does not anticipate claim 18. Claim 19 is dependent from claim 18. As such, Applicant submits that claim 19 is also not anticipated by Lepore as being dependent from a claim not anticipated by Lepore and for the additional limitations that claim 19 contains therein.

Claim 24 is directed to a method for venting gases generated in a bottle having a rim defining a mouth internal of the rim. The claim requires providing a cap having a groove formed on an inner surface of the cap top portion which extends between a first end and a second end. The claim also requires torquing the cap onto the bottle causing the inner surface of the top portion to sit on the rim, wherein the groove first end is located external of the rim and wherein the groove second end is located external of the rim. As discussed, the groove 18 disclosed by Lepore appears to have a first end located external of the rim, but a second end located internal of the rim. As such, Applicant submits that claim 24 is also not anticipated by Lepore.

The Examiner rejected claims 1, 3, 4, 5, 11, 14-17 and 22 under 35 U.S.C. §102(b) as being anticipated by Nishioka, U.S. Patent No. 4,036,386. Claim 1 is directed to a bottle cap for capping the bottle having a mouth having a rim and a radius extending from a center of said mouth to an outer perimeter of the rim. The claim requires a plurality of concentric circular ridges formed on the top portion inner surface of the cap for registering with the rim, wherein the plurality of ridges intersects the radius. Nishioka in FIG. 2 appears to disclose two concentric ridges. However, when the cap mates with the rim, half of the first ridge interfaces with the rim and half of the second ridge interfaces with the rim. The two halves interfacing with the rim are opposite each other and both do not intersect a radius of the mouth radially extending from a center of the mouth and outer perimeter of the rim. At any given radius of the mouth which extends radially from a center of the mouth to an outer perimeter of the rim disclosed by

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Nishioka, only one of the ridges intersects such radius registers with the rim and not a plurality of ridges as required by claim 1. As such, Applicant submits that claim 1 is not anticipated by Nishioka. Claims 3, 4 and 5 are dependent from claim 1. As such, Applicant submits that these claims are also not anticipated by Nishioka as being dependent from a claim not anticipated by Nishioka and for the additional limitations that these claims contain therein.

Claim 14 is directed to a vented bottle cap system which includes a cap and a plurality of concentric circular ridges which sit on a bottle neck and intersects a radius of the mouth which extends radially from a center of the mouth to an outer perimeter of the rim. As discussed, Nishioka does not disclose this feature. As such, Applicant submits that claim 14 is also not anticipated by Nishioka. Claims 15, 16 and 17 are dependent from claim 14. As such, Applicant submits that these claims are also not anticipated by Nishioka as being dependent from a claim not anticipated by Nishioka and for the additional limitations that these claims contain therein.

Claim 22 is directed to a method of venting gases which requires torquing a cap on the bottle causing a plurality of ridges to sit on the rim whereby the concentric ridges intersects a radius of the mouth radially extending from a center of the mouth to an outer perimeter of the rim. As discussed, this feature is not disclosed by Nishioka. As such, Applicant submits that claim 22 is also not anticipated by Nishioka.

Claim 11 is directed to a bottle cap comprising a top portion having a substantially flat inner surface, an annular wall extending from the top portion wherein the substantially flat inner surface extends to the annular wall. The claim also requires a plurality of grooves formed on the substantially flat inner surface top portion. Nishioka discloses a plurality of ridges, but not a plurality of grooves that are formed on the substantially flat cap inner surface. As such, Applicant submits that claim 11 is also not anticipated by Nishioka.

The Examiner rejected claims 18 and 24 under 35 U.S.C. §102(b) as being anticipated by Miller, Jr. et al., U.S. Patent No. 3,100,577. Miller appears to disclose a helical groove having a first end which appears to be external of the rim of the bottle when the cap is capping the bottle and a second end which appears to terminate at a location within the rim. Claim 18 requires a groove which has a first end and a second end where both the first and second ends are external

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of the rim when the cap is threaded onto the bottle neck. As such, Applicant submits that claim 18 is not anticipated by Miller, Jr. et al.

Claim 24 also requires that the groove first end is located external of the rim and the groove second end is located external of the rim when the cap is torqued into the bottle. As such, Applicant submits that claim 24 is also not anticipated by Miller, Jr. et al.

The Examiner rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Nishioka in view of Dubach, U.S. Patent No. 5,257,708. Claim 12 was also rejected under 35 U.S.C. §103(a) as being unpatentable over Lepore in view of Dubach. Claim 6 is dependent from claim 1, and claim 12 is dependent from claim 8. Dubach does not make up for the deficiencies of Nishioka in relation to claim 1 or the deficiencies of Lepore in relation to claim 8. As such, Applicant submits that the combination of Nishioka and Dubach cannot render claim 6 obvious, and the combination of Lepore and Dubach cannot render claim 12 obvious.

The Examiner rejected claim 13 under 35 U.S.C. §103(a) as being unpatentable over Lepore in view of Peters and claim 7 under 35 U.S.C. §103(a) as being unpatentable over Nishioka in view of Peters. Claim 13 is dependent from claim 8, and claim 7 is dependent from claim 1. Peters does not make up for the deficiencies of Lepore in anticipating or rendering obvious claim 8, nor does it make up for the deficiencies of Nishioka in anticipating or rendering obvious claim 1. As such, Applicant submits that the combination of Lepore and Peters cannot render claim 13 obvious, and the combination of Nishioka and Peters cannot render claim 7 obvious.

The Examiner rejected claim 23 under 35 U.S.C. §103(a) as being unpatentable over Nishioka. Claim 23 is dependent from claim 22. As discussed, claim 22 requires that each of the concentric ridges intersects the radius of the mouth radially extending from a center of the radius to an outer perimeter of the rim. This feature does not appear to be disclosed by Nishioka. Consequently, claim 23, which is dependent from claim 22, cannot be rendered obvious by Nishioka as Nishioka does not disclose, teach or suggest the limitation required by claim 23.

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dutt, U.S. Patent No. 4,560,077. Claim 26 is directed to a vented bottle cap system comprising a disc comprising a circular ridge and a plurality of slots formed across the ridge wherein when the cap

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is completely threaded onto the bottle neck, the ridge sits on the bottle neck rim and the slots form pathways for any gas generated in the bottle to escape across the bottle neck rim. The slots disclosed by Dutt do not provide a path for the escape of gases when the cap is completely threaded onto the bottle neck. In fact, Dutt discloses that the vent slots 60 have a height such that it would allow the pressure in the container to start to be released before the closure's screw threads have become completely separated from the container's screw threads (see column 7, lines 49-52). In other words, the slots disclosed in Dutt only provide for the escape of gas from the bottle when the cap is partially unscrewed from the bottle. Thus, Dutt does not disclose a cap having a ridge having a plurality of slots which provide pathways for the escape of gas when the cap is completely threaded onto the bottle as required by claim 26. Therefore, claim 26 is not rendered obvious by Dutt.

The Examiner rejected claims 27-30 under 35 U.S.C. §103(a) as being unpatentable over Nishioka. According to the Examiner, Nishioka discloses all the features of claim 27, with the exception that it does not disclose a disc made of a semi-hard material. Claim 27 requires a disc made of material that is at least semi-hard and that requires a plurality of concentric ridges formed on the second surface of the disc wherein when the cap is completely threaded onto the bottle neck, the plurality of ridges contact the bottle neck rim along a radius of said mouth extending from a center of said mouth to an outer perimeter of said rim. The ridges disclosed in Nishioka do not extend along a radius of the mouth extending from a center of the mouth to an outer perimeter of the rim when the cap is completely threaded onto the bottle neck. As such, Applicant submits that claim 27 cannot be rendered obvious by Nishioka. Claims 28 and 30 are dependent from claim 27. Thus, Applicant submits that these claims are also not rendered obvious by Nishioka as being dependent from a claim not rendered obvious by Nishioka and for the additional limitations they contain therein. Claim 29 has been cancelled.

The Examiner rejected claim 25 under 35 U.S.C. §103(a) as being unpatentable over Lepore. Claim 25 is dependent from claim 24. As discussed, claim 24 is believed to be in condition for allowance over Lepore. As such, Applicant submits that claim 25 is also in

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condition for allowance over Lepore as being dependent from an allowable base claim over Lepore and for the additional limitations it contains therein.

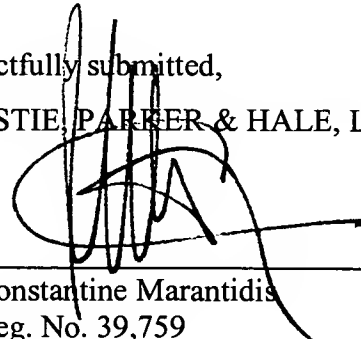
The Examiner also rejected claim 25 under 35 U.S.C. §103(a) as being unpatentable over Miller. As discussed, claim 24 is believed to be allowable over Miller. As such, Applicant submits that claim 25 is also allowable over Miller as being dependent from a claim allowable over Miller and for the additional limitations it contains therein.

The Examiner has stated that claims 20 and 21 would be allowable if rewritten in independent form including the limitations of their base claim and any intervening claim. Claim 114 is claim 21 rewritten in independent form. As such, Applicant submits that claim 114 is also in condition for allowance.

The rejections and objections to the claims are believed to have been overcome and this application is now believed to be in condition for allowance. Should the Examiner have any remaining questions or concerns about the allowability of this application, the Examiner is kindly requested to call the undersigned attorney to discuss them.

Respectfully submitted,
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Enclosure: Supplemental Declaration